

Final Evaluation Findings

New Jersey Coastal Management Program

November 1997—May 2004



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**Office of Ocean and Coastal Resource Management
National Ocean Service
National Oceanic and Atmospheric Administration
U.S. Department of Commerce**



TABLE OF CONTENTS

I.	Overview
II.	Program Review Procedures
	a. Overview
	b. Document Review and Issue Development
	c. Site Visit to New Jersey
III.	Coastal Area Description
IV.	Program Description
V.	Accomplishments, Review Findings, and Recommendations
	a. Staffing, elevation and leadership of the Coastal Planning Office
	b. Regulation and Enforcement
	c. Coordination
	d. Completion and adoption of the Hackensack Meadowlands Master Plan
	e. Local government capacity building
	f. Continued involvement in New Jersey's Growth Sensitive Framework
VI.	Conclusion
VII.	Appendices
	Appendix 1: Response to Program Evaluation and Status as of April 2002, Urban Harbors Institute, University of Massachusetts Boston
	Appendix 2: Response to Previous Section 312 Evaluation Findings
	Appendix 3: Persons and Institutions Contacted
	Appendix 4: Persons Attending the Public Meeting
	Appendix 5: Response to Written Comments
	Appendix 6: Summary Table of Accomplishments
	Appendix 7: Summary Table of Recommendations

I. OVERVIEW

The Coastal Zone Management Act (CZMA) of 1972, as amended, established the Coastal Zone Management Program. Section 312 of the CZMA requires the National Oceanic and Atmospheric Administration (NOAA) to conduct periodic performance reviews or evaluations of federally approved Coastal Management Programs. The most recent evaluation of the New Jersey Coastal Management Program (NJCMP) examined the operation and management of the program during the period of November 1997 through May 2004. The New Jersey Department of Environmental Protection (DEP) administers NJCMP.

This document describes the evaluation findings of the Director of NOAA's Office of Ocean and Coastal Resource Management with respect to NJCMP during the review period. The fundamental conclusion of this evaluation of NJCMP is that DEP is successfully implementing and enforcing its federally approved Coastal Management Program.

The recommendations made by this evaluation appear in boxes and follow the relevant section of findings. Two types of recommendations are possible: (1) **Necessary Actions** address programmatic requirements and *must* be implemented by the indicated date; and (2) **Program Suggestions** describe actions that NOAA believes DEP should take to improve the program but that are not currently mandatory. Program Suggestions that are reiterated in consecutive evaluations due to continuing problems may be elevated to Necessary Actions. If no dates are indicated, DEP is expected to address the recommendations by the time of the next §312 evaluation. This document contains nine Program Suggestions and no Necessary Actions. NOAA will consider the findings made by this evaluation when making future financial award decisions regarding NJCMP.

II. PROGRAM REVIEW PROCEDURES

A. OVERVIEW

NOAA began its review of NJCMP in March 2004. The §312 evaluation process involves four distinct components:

- An initial document review and identification of specific issues of particular concern;
- A site visit to New Jersey including interviews and a public meeting;
- Development of draft evaluation findings; and
- Preparation of the final evaluation findings, partly based on comments from the state regarding the content and timetables of recommendations specified in the draft document.

B. DOCUMENT REVIEW AND ISSUE DEVELOPMENT

The evaluation team reviewed a wide variety of documents prior to the site visit, including: (1) NJCMP program documents and financial assistance awards; (2) previous §312 evaluation findings; (3) *The New Jersey Coastal Management Program Evaluation and Status as of April 2002*, prepared by the Urban Harbors Institute, University of Massachusetts Boston, and (4) relevant publications on natural resource management issues in New Jersey.

Based on this review and on discussions with the Office of Ocean and Coastal Resource Management's (OCRM) Coastal Programs Division, the evaluation team identified priorities for further examination during the site visit.

Potential issues remaining from the previous §312 evaluation included:

- Raising the visibility of NJCMP within the DEP;
- Increasing coordination with the New Jersey Meadowlands Commission;
- Revision of the state federal consistency manual; and
- Regulations surrounding state shellfish habitat.

Potential controversial emerging issues included:

- Coordination with relevant state, federal, and nonprofit entities on windfarms;
- Exclusionary areas for fisheries;
- Public access;
- Regulation of the 60,000 docks in New Jersey and enforcement of shellfish habitat rules;
- Concerns about the so-called Coastal Area Facility Review Act (CAFRA) loophole, stemming from the perception that CAFRA does not regulate subdivisions of less than 25 lots; and
- Consideration of expansion of the coastal zone boundary.

C. SITE VISIT TO NEW JERSEY

Notification of the scheduled evaluation was sent to the New Jersey Coastal Management Program. NJCMP assisted OCRM in contacting appropriate federal, state, local, and

nonprofit partners. NJCMP also advertised public meetings in local newspapers. In addition, a notice of NOAA's "Intent to Evaluate" was published in the *Federal Register* on March 23, 2004.

The site visit to New Jersey was conducted on May 10—14, 2004. Kenneth Walker, Evaluation Team Leader, OCRM National Policy and Evaluation Division; Bill O'Beirne, State Liaison Team Lead, OCRM Coastal Programs Division; Elisabeth Morgan, NJCMP Specialist, OCRM Coastal Programs Division; Jennifer Winston, OCRM National Policy and Evaluation Division; and Will Travis, Executive Director, San Francisco Bay Conservation and Development Commission, formed the evaluation team.

During the site visit, the evaluation team interviewed NJCMP staff, senior DEP and other state officials, federal agency representatives, interest group representatives, and private citizens. Appendix B lists people and institutions contacted during this review.

The CZMA requires NOAA to hold at least one advertised public meeting. The first public meeting was held on May 12, 2004, at 2:00 p.m. at the Jacques Cousteau National Estuarine Research Reserve, 130 Great Bay Boulevard, Tuckerton, New Jersey. The second public meeting was held on May 13, 2004, at 7:00 p.m. at the Marine Sciences Consortium, Sandy Hook Field Station, Sandy Hook, New Jersey. The public meeting gave members of the public the opportunity to express their opinions about the overall operation and management of NJCMP. Appendix C lists individuals who registered at the meeting. Appendix D contains NOAA's response to written comments received.

The crucial support of NJCMP staff with the logistics and planning of the site visit is gratefully acknowledged.

III. COASTAL AREA DESCRIPTION

New Jersey's coastline is rich and diverse. It spans an intensely developed urban waterfront in the Northeast, a rapidly growing suburban coastline, the rural Delaware Bay shoreline, and the developing Delaware River shoreline. Coastal industries such as tourism, maritime trade, and commercial and recreational fishing, contribute enormously to New Jersey's economy. The coast also provides crucial habitat for a wealth of wildlife, including migratory birds, commercially valuable fish and shellfish, and sporting and recreational species.

New Jersey's coastal zone extends from the New York border on the Hudson River south to Cape May Point and then north along the Delaware River to the head of tide in Trenton. The coastal zone encompasses the waters and varying widths of adjacent land areas next to these tidal waters. The boundary encompasses approximately 1,792 miles of tidal coastline, including 126 miles along the Atlantic Oceanfront from Sandy Hook to Cape May. The landward boundary ranges in width from one hundred feet to nearly 17 miles. The total land area of the Bay and Shore region is approximately 1,376 square miles or 17 percent of New Jersey's land area.

IV. PROGRAM DESCRIPTION

New Jersey prepared its coastal management program in two phases. The first phase of the program covered 1,376 square miles of land and related coastal waters in a region extending from the Raritan Bay along the Atlantic oceanfront to the Delaware Memorial Bridge. OCRM approved this area, referred to as the Bay and Ocean Shore Segment, in September 1978. The second phase of NJCMP includes the entire State under one program, incorporating the Bay and Ocean Shore Segment, the coastal areas in the northeast part of the State along the Hudson River and Related waters, the Hackensack Meadowlands, and the coastal areas in the southwest part of the State along the Delaware River and its tributaries. OCRM approved this phase on September 29, 1980.

NJCMP is based primarily on four laws and their implementing regulations:

- The Coastal Area Facility Review Act (CAFRA) was enacted in 1973 and later amended on July 19, 1993. CAFRA applies to coastal waters in the southern part of the state. According to the DEP's Land Use Regulation Program, "The CAFRA law regulates almost all development activities involved in residential, commercial, or industrial development, including construction, relocation, and enlargement of buildings or structures; and all related work, such as excavation, grading, shore protection structures, and site preparation."
- The Wetlands Act of 1970 regulates excavation, fill, dredging, and structures in coastal wetlands.
- The Waterfront Development Act regulates docks, piers, pilings, bulkheads, marinas, bridges, pipelines, cables, and dredging on tidally flowed waterways. The Act is designed to limit problems for existing navigation channels, marinas, moorings, other existing uses, and the environment.
- The Freshwater Wetlands Protection Act regulates development in freshwater wetlands and transition areas adjacent to freshwater wetlands.

These four laws regulate the area between the upland boundary of the coastal zone and the three nautical mile limit of the U.S. Territorial Sea and the interstate boundaries with New York, Delaware, and Pennsylvania. The Tidelands Act also applies to development in the coastal zone. Finally, the Hackensack Meadowlands Development and Reclamation Act, implemented by the New Jersey Meadowlands Commission, applies to the Hackensack Meadowlands, which is in the coastal zone.

NJCMP is administered by the DEP, but is split into three different offices, according to function. The Coastal Management Office is housed within Policy, Planning, and Science and reports to Assistant Commissioner Jeanne Herb. The Land Use Regulation Program (LURP) reviews applications, issues permit decisions for coastal development, and conducts federal consistency reviews. LURP reports to Assistant Commissioner for Land Use Management, Ernest Hahn. The Bureau of Coastal and Land Use Enforcement (BCLUE) reports to Assistant Commissioner for Compliance and Enforcement, Lisa Jackson.

V. ACCOMPLISHMENTS, REVIEW FINDINGS, AND RECOMMENDATIONS

A. Staffing, elevation and leadership of the Coastal Management Office

NJCMP was originally approved as a centralized program, with all functions operating from the Division of Coastal Resources. In the early 1990's, DEP was reorganized, splitting the planning, permitting, and enforcement functions into different programs and offices. In the previous §312 evaluation, NOAA had expressed some concerns about program coordination. In 2001, the Urban Harbors Institute, University of Massachusetts, Boston (UHI) conducted an independent evaluation of NJCMP¹. The evaluation found that, as a result of this reorganization, the "Coastal Planning Office has been unable to fulfill its role due to inadequate staffing levels or funding and difficulty in effectively 'elevating' issues and effecting their resolution." At the time of the UHI evaluation, the Coastal Planning Office was subsisting on two full-time staff people and a Director whose time was often diverted to other tasks. This was a dramatic decline from the 15 staff who performed planning functions when the Division of Coastal Resources existed, which was initially cut to 8 after the functional split. This reduction in Coastal Planning Office staff also led to LURP and BCLUE becoming the public "face" of NJCMP.

Since 2001, NJCMP has made great progress increasing the capacity of the Coastal Planning Office, renamed the Coastal Management Office to better reflect its functions. The staff has grown from 2 to 6, allowing the Office to expand its scope of work to include development of coastal policies, clean marina program, and enhancement of public access. Increased capacity has improved coordination with other coastal management partners. Coastal management interests throughout the state noted that Coastal Management Office staff are very approachable and knowledgeable.

The UHI evaluation also noted that, as a result of reorganization in the 1990's, "New Jersey's Coastal Planning Office has been structured such that it reports through an Assistant Commissioner and a Deputy Commissioner to the Commissioner. This is considerably lower in the Table of Organization than similar programs in other states." The Coastal Management Office has been elevated to Policy, Planning, and Science, and now reports to the Assistant Commissioner of Policy, Planning, and Science, who reports directly to the Commissioner. Stakeholders noted that this relocation has made the Coastal Management Office more effective in bringing coastal issues to the attention of the Commissioner and the broader DEP. In addition, the Coastal Program Manager serves on the Commissioner's Policy Team, which increases her ability to bring coastal

¹ In 2002, New Jersey's Coastal Management Program contracted with the Urban Harbors Institute (UHI) of the University of Massachusetts Boston to conduct an evaluation of the program. UHI set out to examine "how the program is defined on paper and how it actually functions." To do this, the evaluation team, conducted interviews with DEP; other state, federal, county, and municipal agencies; members of the academic and research community; business and industry groups; and environmental protection advocacy groups.

issues to the attention of the Commissioner. In sum, relocation, elevation, and increased staffing of the Coastal Management Office have allowed the office to improve and expand its coordination activities.

While the Coastal Management Office has made great progress in expanding its coordinating role, the evaluation team noted that the need remained for the Office to play a greater leadership role in New Jersey's coastal management. A greater leadership role would allow the Coastal Management Office to help set policy and resolve inconsistencies in the state's management of coastal issues. Other DEP entities, including the Division of Watershed Management, do not appear to see the need for integrating the policies of the coastal zone management plans and comprehensive coastal management plans or consulting Coastal Management Office staff in their activities. This is particularly problematic because the Division of Watershed Management houses closely related coastal management programs, including the National Estuary Programs and the Statewide Nonpoint Source Pollution Management Program, while the Coastal Management Office oversees the Coastal Nonpoint Pollution Control Program.

The Coastal Management Office would also be better able to play a leadership role if they were able to retain more of the CZMA implementation (§306) funds. This would allow the Office to enhance its technical and planning capability. This could be achieved by either directing more of the federal Coastal Zone Management Act money to the Coastal Management Office or by requesting general funds. Nevertheless, nearly 75 percent of §306 funds are passed through to the LURP and BCLUE. As UHI notes:

This limits the staffing for the Coastal Planning Office and its ability to do the wide range of other activities necessary to a successful coastal management program. Missing are any meaningful form of interactions with or assistance to municipalities, interest groups, and the general public in their actions related to coastal management; coordination with the various entities within New Jersey state government that are involved to one degree or another in coastal issues, and any real capability to facilitate the development of new policy drawn from scientific information or in response to new and emerging issues.

Because so much of the §306 funds are spent on regulation and enforcement, the Coastal Management Office must use coastal zone enhancement (§309) funding for staff. Section 309 grants are intended for coastal zone enhancement, so staff funded by §309 grants are limited in the scope of their activities. Retaining more §306 funds or requesting general funds for the Coastal Management Office would enable the Office to fill a statewide leadership role in policy development for the following emerging coastal issues:

Wind energy:

Many groups that the evaluation team met with cited wind energy facility development the most significant emerging issue on the coast. Windfarms have become a contentious issue nationally: Some environmental interests hailed wind energy as a clean alternative energy source, while other environmental groups and federal partners raise concerns

about their impacts on New Jersey's highly productive migratory and seabird populations and fish and shellfish habitat. Commercial and recreational users expressed concern about loss of public access for fishing, diving, boating, and surfing. Members of the public raised issues with the aesthetics of windfarms on the ocean horizon. Other interests were concerned about the impacts of buried transmission lines for offshore facilities on dredging activities and on shellfish habitat. Different entities are trying to address this issue in varying ways, but more coordination and a strategic plan are clearly needed. The Coastal Management Office could play a leadership role by convening stakeholders and coordinating the development of a state policy on wind energy and other offshore energy facility development.

Beach nourishment:

Like windfarms, different entities took a wide variety of positions on beach nourishment. While most agreed that the practice of creating steep beaches with a flat shoreline made the coastline more susceptible to dangerous rip currents, surfers and divers took sometimes conflicting views over whether beach nourishment improved or worsened beach access.

Others expressed concern that beach nourishment actually worsens the Coastal Management Office's ability to manage coastal hazards. As one regulator pointed out, "beach nourishment feeds public perception that everything is ok," meaning that beach nourishment tends to encourage development in inappropriate areas that are vulnerable to coastal hazards.

NJCMP, in conjunction with the New Jersey Marine Sciences Consortium, has begun to address rip currents by installing nearly 2,000 rip current warning signs at public access points along the Atlantic Coast. However, the Coastal Management Office could play a greater leadership role by helping to convene public access users, environmental groups, developers, and other interested parties to craft guidelines to ensure that shoreline erosion, public access, and mitigation of hazards are considered in future beach nourishment efforts.

Natural hazards:

Several stakeholders expressed concern that tourists and developers have become apathetic about the threat posed by natural hazards because New Jersey has not recently suffered a major coastal storm. Beach nourishment may have contributed to this problem by shielding coastal development from shore erosion, storm surge, and other coastal hazards. As tourism and coastal development increase in New Jersey, current coastal evacuation and redevelopment plans may no longer be adequate in the event of a major natural hazard event.

NJCMP should begin to develop a long-term strategy for addressing this issue and in the short-term develop and provide information to local governments about potential impacts and risks of natural hazards.

Water-dependent uses on the coast:

Redevelopment and gentrification are leading to the loss of space for coastal-dependent uses. Environmental groups and regulators alike expressed concern that traditional uses such as working marinas and drydocks are being permanently lost to residential development either because land costs become too high to support commercial operation or because they are currently underutilized. These water-dependent uses require access to the coast, and once a waterfront has been converted to residential development, the water-dependent use is often permanently pre-empted. LURP expressed concern that local governments often do not support marinas and other traditional uses, and that regulators fear political pressure and lawsuits if they do not grant permits that would allow for the use to convert. This is causing redevelopment to occur in an ad hoc, rather than a planned, manner.

The Coastal Management Office could play a needed role in developing policy guiding retention or conversion of these uses. LURP suggested working with the Coastal Management Office to identify policy shortcomings that cause permits to be granted to projects that convert water-dependent uses to other development. The Coastal Management Office could also work with coastal communities to explain the value of water-dependent uses or to buy back property rights for prioritized water-dependent uses.

Docks and piers:

In response to the past §312 Evaluation Findings, NJCMP has made progress on clarifying its shellfish habitat policy and addressing potential impacts of docks on shellfish habitat. From 2001 to 2003, NJCMP adopted amendments to the shellfish rules, which allow construction of a dock at a single family dwelling. Dock construction must reduce the area of shellfish habitat condemned and other impacts to the marine ecosystem "to the extent practicable." Mitigation must also be provided in the form of a conservation restriction on the property and a monetary contribution to a Shellfish Habitat Mitigation fund. In the past, NOAA found that LURP was issuing permits by default by simply allowing the 90-day review period to lapse without issuing a decision on permit applications for development in shellfish habitat. Adoption of the new shellfish habitat rules regarding length, construction materials, and mitigation, particularly when in proximity to shellfish habitat, and increased support from the new Administration seem to have ended this practice.

While the amendments to the shellfish rules have clarified dock construction in shellfish habitat, some members of the public and certain partners continue to express concern or confusion about issues related to docks. The confusion relates in part to how dock standards which protect different resources, such as navigation channels and submerged vegetation habitat, may be contradictory and thus preclude dock construction at a particular site. Certain partners also expressed concern about grandfathered piers. Many coastal interests were also concerned about the potential cumulative and secondary impacts of numerous docks. The Coastal Management Office could play a leadership role in clarifying the issues and policies surrounding docks and developing a management

scheme to address cumulative and secondary impacts of dock development. This would reduce confusion for landowners, allay concerns about dock proliferation, and help protect shellfish and other submerged resources.

Public access:

Surfers, fishermen, members of the public, local government officials, and environmentalists expressed concern that public access is being restricted or lost in New Jersey. Public access is being lost as uses are restricted on public beaches by local governments and as parking adjacent to public access points is restricted. Others are being lost to coastal redevelopment.

Public access is an excellent opportunity for the Coastal Management Office to take a lead policy role by convening stakeholders and working with interested local governments. NJCMP is taking steps in the right direction—the Coastal Management Office has hired a fellow through the NOAA Coastal Management Fellowship program to conduct public access research and begin working with local governments to educate them on the public trust doctrine and to create an inventory of existing public access points. NJCMP could increase its visibility by building upon these efforts.

PROGRAM SUGGESTION: The Coastal Management Office needs to continue to find ways to play a leadership role in the management of New Jersey’s coastal resources. One mechanism would be to retain more of the §306 funds that are currently being provided to LURP and BCLUE. This would enable the Coastal Management Office to hire additional staff needed to address emerging coastal issues and resolve inconsistencies in coastal management. This would also allow the Coastal Management Office to provide funding support to other entities for projects addressing emerging coastal issues.

B. Regulation and Enforcement

The UHI findings noted that:

Several respondents indicated that they felt enforcement activities were not on the same level as those of the permitting process. They contended that projects were not being completed according to permit standards, that activities without permits were taking place, and that follow up was lacking when there were enforcement actions. Various reasons were given for this situation, including insufficient staff, too many permits, confusing permits that were “out of touch” with the situation, etc. The perception, accurate or not, harms the credibility of both the Land Use Regulation Program and the Bureau of Coastal and Land Use Enforcement.

After meeting with BCLUE and others, the evaluation team was pleased to discover that the permit enforcement situation has dramatically improved, in large part due to the new administration. Enforcement appears to be a priority of the current administration, and enforcement staff feels invigorated by the freedom to actively and publicly increase the

number and scope of enforcement actions. To combat public perception that DEP does not force permit violators to remove illegal structures or otherwise compel compliance with regulatory standards, BCLUE has increased the number of permit compliance inspections and has issued more and larger administrative penalties for violations. Despite this renewed effort to enforce the laws comprising the NJCMP, effective enforcement can be difficult, as several of these laws do not have sufficient administrative penalty authority nor do they allow cases to be brought into the most advantageous legal venue for adjudication to compel swift compliance or deter violations. Changes to the NJCMP statutes affecting the above impediments would allow for more decisive enforcement action with a suitable deterrent to future violations. The Department has drafted legislation, known as the Polluter Pays bill, to accomplish this. LURP has also been significantly strengthened in recent years. At least twelve new staff have been hired to backfill for positions that had been lost, and staff has been supported with new training, computers, and equipment. Morale has also improved since regulatory staff has been able to see that the permits they issue are now more actively enforced by BCLUE.

Coordination between BCLUE and LURP is also much improved. Enforcement staff noted that they feel more comfortable consulting with regulatory staff to seek input about which permits are priorities. BCLUE has provided training for LURP staff, and LURP now seeks guidance from enforcement staff to make sure that permit language is clear enough to enforce. The New Jersey Environmental Management System (NJEMS) has further facilitated coordination between BCLUE and LURP. Although this database system has not yet been fully implemented for land use permits, the completed system will allow staff from both BCLUE and LURP to track any permit through all steps of the permit issuance and enforcement process.

While this renewed enthusiasm and capacity within BCLUE and LURP is encouraging, no amount of staff and resources would be able to track every enforcement violation. In order to make sure that staff does not become overcommitted, BCLUE will need to find a way to prioritize enforcement actions. As Scott Brubaker, Chief, BCLUE, pointed out, BCLUE cannot do everything, so the Bureau must focus on doing the right thing. Further, the current structure of NJEMS does not facilitate tracking of actions, so it is unclear how many cases are resolved in a given year, and how long it has taken to resolve them.

PROGRAM SUGGESTION: Several of the laws upon which the NJCMP is based have outdated and insufficient administrative penalty authority. To promote compliance, the NJCMP should pursue legislation that gives the Department updated and sufficient administrative penalty authority.

PROGRAM SUGGESTION: It is clear that the need for enforcement outpaces the Department's staff and resource capabilities. To prevent overtaxing the system, NJCMP should develop a systematic approach to measure and distribute the enforcement workload and recognize accomplishments. NJCMP should also devise and implement a system to prioritize enforcement activities.

C. Coordination

Coordination with federal and state agencies on permit reviews

LURP coordinates with several federal and state agencies to seek input on permits. For the most part, partners feel that this process works well.

The National Park Service (NPS) reviews permits for construction on the banks or submerged portions of Wild and Scenic Rivers. NPS representatives felt that their relationship with LURP was successful because the Wild and Scenic Rivers program allows LURP to review projects further upstream than they would otherwise be able. NPS also lauded LURP's "Permit Day," which allowed developers to sit down with regulators to conduct preliminary review of development plans. They also felt that statewide general permits allowed the Park Service to provide pre-coordination on permits and streamlined the permitting process.

NOAA Fisheries participates in the joint permitting process on a project-specific basis. NOAA Fisheries described its relationship with LURP as being "very cooperative." Although Fisheries expressed a concern about the state's management of docks and piers, particularly those "grandfathered" under state legislation, they noted that the program has some teeth again and that they are basically satisfied with the shellfish rule changes.

The National Marine Fisheries Service, the U.S. Army Corps of Engineers (Philadelphia District), and LURP conduct regular permit processing meetings, which improve coordination and communication in the southern portion of the state.

The U.S. Army Corps of Engineers dredging staff coordinates with DEP's Office of Dredging and Sediment Technology on water quality certifications and permits for dredging and beach nourishment. Staff appreciated the convenience of what they perceived to be "one-stop shopping" at DEP. They did express concern, however, that DEP has many mandates, some of which conflict. These conflicting mandates have made it difficult to predict what will influence a permit.

The Pinelands Commission has direct regulatory authority over the Pinelands Area identified by state statute. The Pinelands Area is smaller than the Pinelands Reserve identified by federal statute. LURP therefore issues permits on land that falls outside the Pinelands Area but within the Pinelands Reserve. The Commission has an MOU with NJDEP to advise LURP on these permits. The Commission felt that it has a "good working relationship" with DEP and that the joint permitting process works well. The Commission is working with DEP and the Office of Smart Growth to reconcile the land use/growth policies under the Coastal Zone Management regulations and Pinelands regulations. For the time being, the Commission is satisfied that the regulations are mostly consistent, and that there is no procedural need for a new MOU with DEP.

The U.S. Fish and Wildlife Service also seemed satisfied with the joint permitting process, although they expressed a desire to have regular opportunities to comment on

permits involving endangered species, particularly in cases involving dune stabilization and offshore wind energy development. Fish and Wildlife recommended developing a “quick list” of conditions that would be of concern to them. Fish and Wildlife’s restoration program also expressed concern that time period for permitting restoration projects was prohibitive. A possible way to expedite restoration permits would be to have a single point of contact at LURP designated for restoration projects or for a particular region. For example, LURP could designate a habitat restoration coordinator for the state. Fish and Wildlife staff would then know whom to contact with questions or problems with a permit.

Coordination of research priorities with members of the New Jersey Marine Sciences Consortium

The mission of the New Jersey Marine Sciences Consortium is “to serve New Jersey and the region through innovative research, education and outreach designed to address coastal issues, develop marine technology, promote science-based management policy, and improve science literacy and informed decision making among its citizens.” NJCMP collaborates with the Consortium to identify research priorities, fund relevant research, and conduct public education. Staff from NJCMP’s Coastal Management Office sits on the Consortium’s board, and the Consortium’s President sits on the DEP’s research agenda board. Joint participation in research agendas helps both organizations prioritize relevant applied research. NJCMP also worked with the Consortium to design and install rip current warning signs at public access points. This successful collaboration with the Consortium should be considered as a model for NJCMP’s relationships with other partners.

Improved coordination with Jacques Cousteau National Estuarine Research Reserve

The Jacques Cousteau National Estuarine Research Reserve at the Mullica River and the Great Bay is managed by Rutgers University Institute of Marine and Coastal Sciences. While NJCMP has collaborated with the Jacques Cousteau National Estuarine Research Reserve on coastal decisionmaker workshops and other individual projects, the Reserve expressed concern that this collaboration occurs mostly on an ad hoc basis, and that NJCMP does not fully take advantage of its research capabilities. Further, unlike the collaboration with the Consortium, there is no joint participation in identification of research needs and priorities. Because the National Coastal Management Program and the National Estuarine Research Reserve System are both administered by the National Oceanic and Atmospheric Administration’s Office of Ocean and Coastal Resource Management, NOAA would like to see closer collaboration between state coastal management programs and estuarine reserves. This would allow for joint planning, science to management efforts, and development and implementation of a coastal management research agenda. Reserve staff seemed receptive to the idea of regular meetings convening all coastal management entities to encourage greater synergy and coordination on research agendas and activities. This would help move NJCMP/Reserve collaboration beyond workshop planning and into the realm of research, which the Reserve perceives to be one of its major strengths.

PROGRAM SUGGESTION: NJCMP should consider establishing more regular interactions with the Jacques Cousteau National Estuarine Research Reserve to discuss needs and the possibility of joint efforts. If possible, the Reserve should be integrated into NJCMP's other research planning efforts, including the DEP Coastal Research Agenda, and the New Jersey Marine Sciences Consortium Priority Research Agenda.

Establishment of new partnerships with the nonprofit community and coordination with state agencies for land acquisition

NJCMP has established or built upon existing partnerships with the nonprofit community during the review period. Partnerships with the Trust for Public Land and the DEP Green Acres Program, have increased NJCMP's coastal land acquisition capacity. Increased collaboration with other nonprofits has improved communication and the perception of NJCMP.

The Green Acres Program was established in 1961 within the DEP to provide open space and recreation areas in New Jersey. Green Acres partners with other state agencies, counties, municipalities, and conservation organizations to acquire and manage open space. Green Acres' ongoing cooperation with New York-New Jersey Harbor Estuary Program and the NJCMP to obtain a 61-acre addition to a state park contributes greatly to NJCMP's partnerships with the nonprofit community.

The Hudson River Walkway envisions a contiguous 18.5 mile long public waterfront corridor traversing nine municipalities in two counties from the George Washington to the Bayonne Bridge. NJCMP continues to partner with state and local government, commercial developers, and public interest groups to construct additional segments of the Walkway.

The Trust for Public Land (TPL) has been working to provide technical assistance to local governments and the state to increase emphasis on coastal acquisition and to identify funding sources. TPL is responsible for New Jersey receiving three earmarks from the Coastal and Estuarine Land Conservation Program. TPL staff is concerned that a lack of local capacity is a barrier to promoting acquisition.

Representatives from the American Littoral Society, New York-New Jersey Baykeeper, Clean Ocean Action, and Surfrider Foundation all expressed appreciation that NJCMP staff is knowledgeable and approachable and that recent dialogue with the Coastal Management Office was positive. The nonprofit groups felt that this was progress in the right direction and expressed a desire to continue building these partnerships, perhaps through more regular meetings.

NJCMP will never have the resources to accomplish all of its coastal management goals by working alone. NJCMP's partnerships with the nonprofit community could expand the reach and capacity of the Program significantly. Some nonprofit groups, including Surfrider Foundation and Delaware River Basin Commission, expressed a desire to

increase their collaboration with NJCMP. Others expressed concern that existing partnerships need to be better coordinated and institutionalized. NJCMP should consider expanding its network to include partnerships with these nongovernmental organizations, where useful and appropriate.

NJCMP has established new partnerships on a variety of fronts, notably in coastal land acquisition. Such contacts can be very useful for conducting outreach and education, garnering political and legislative support, and for issue advocacy. The Coastal Management Office should continue to pursue such partnerships.

PROGRAM SUGGESTION: There are many parties – federal, state, and private – involved in coastal management activities in New Jersey. Coordination is not as good as it could be, however, and joint efforts are very ad hoc. The Department should look at ways to enhance communication and coordination among these groups, such as through workshops, regular meetings, strategic planning committee, or other forums. Such activities could help promote sharing research priorities and activities, seeking opportunities to leverage funds, and other joint activities.

D. Completion and adoption of the Hackensack Meadowlands Master Plan

The New Jersey Meadowlands Commission (NJMC or Meadowlands Commission) was created in 1969 to govern environmental protection, economic development, and solid waste management in parts of ten Bergen County and four Hudson County communities. The Meadowlands Commission is responsible for coastal zone management in the area of the Meadowlands District, along with the DEP. The original Hackensack Meadowlands Master Plan, known as the Hackensack Meadowlands Comprehensive Land Use Plan, pre-dated enactment of various environmental statutes, including the Clean Water Act. This caused concern amongst NOAA, environmentalists, and others that the Master Plan did not reflect current environmental requirements.

For approximately ten years, the state and NOAA helped support a Special Area Management Plan process with the Meadowlands Commission, federal agencies, and others to try to facilitate the master plan update and address environmental concerns. Nevertheless, the process collapsed in 2000. Subsequently, the Meadowlands Commission decided to update the Master Plan on its own. The New Jersey Meadowlands Commission adopted the new NJMC Master Plan in January 2004.

The new Master Plan is far more consistent with DEP regulations and with the provisions of the Clean Water Act. The New Jersey Meadowlands Commission District Zoning Regulations, adopted in February 2004, have been crafted to implement the updated Master Plan. To create the Master Plan, the Commission provided opportunity for input by holding three public meetings, allowing for the public to comment at a Commission meeting prior to rendering a decision, and making the draft available to state and federal agencies for review. The new Master Plan makes great strides toward long-term environmental sustainability in the Meadowlands—it proposes minimal development in

New Jersey Coastal Management Program §312 Final Evaluation Findings

wetlands and encourages stewardship in environmentally sensitive areas by targeting land acquisition, providing equipment and training to municipalities, and conducting research in conjunction with Rutgers University. The Commission is also seeking to redevelop old industrial and landfill sites.

NOAA views the successful completion and adoption of the NJMC Master Plan and zoning regulations as quite an improvement over the old plan and zoning regulations. It will lead to greater consistency with statewide regulations and federal environmental statutes and greater environmental sustainability for the Meadowlands.

Although the new Master Plan is much more consistent with DEP regulations, there is no document that formally sets out roles and responsibilities between DEP and the NJMC. While most activities have been conducted appropriately, there have been a few problems. Under New Jersey's approved management program, the NJMC is responsible for land use management within its jurisdiction, in conjunction with the DEP. State freshwater and tidal wetlands laws do not apply in the Meadowlands. Floodplain regulations do apply and waterfront development regulations apply in tidal waters. The DEP is the lead agency for federal consistency in the Meadowlands District. The NJMC staff is supposed to advise the DEP on consistency with the NJMC Master Plan and Zoning Regulations for projects that are in the Meadowlands District and under their jurisdiction. However, there has been some confusion about this and to some extent the NJMC has on its own been acting as the lead and issuing its own "consistency certifications." While this problem seems to have been addressed, the lack of a formal document detailing the roles and responsibilities of each agency has led to confusion between LURP and Commission staff about which regulations apply in a particular circumstance and the role of each agency. The CZMA and implementing regulations call for a single entity within the state to issue consistency decisions in order to promote efficiency and accountability. Thus, all final federal consistency decisions must be issued from DEP, even if the decision regarding consistency with the NJMC Master Plan and zoning regulations is first reached by the Commission. A formal MOU/MOA would clarify roles and ensure consistent regulatory implementation throughout the Meadowlands.

PROGRAM SUGGESTION: The Coastal Management Office and the New Jersey Meadowlands Commission should develop an MOU/MOA to ensure mutual understanding of the Commission's role in implementing the NJCMP in the Hackensack Meadowlands District.

PROGRAM SUGGESTION: Prior to using the new Master Plan for consistency determinations, the Meadowlands Commission must also submit the Plan as a Routine Program Change or Amendment to NOAA's Office of Ocean and Coastal Resource Management.

E. Local government capacity building

New Jersey's coastal communities are on the front line in terms of making decisions that affect coastal resources, including valuable habitats, fisheries, and natural and recreational areas. Increased population growth and recreation and tourism pressures have already resulted in the loss of green space, fragmentation of coastal habitat, degraded water quality and coastal resources, and increased vulnerability to hazards. Many of NJ's coastal communities lack the resources, tools and information to adequately plan for and address the impacts of their rapid growth and tourism pressures.

New Jersey is a strong home rule state, thus most land use decisions are made at the local level. Although CAFRA permit standards address impacts of large development projects, much new coastal development is not subject to CAFRA as the projects do not meet the CAFRA threshold. In many states, coastal management programs partner with coastal communities and provide technical and financial assistance to improve local decision-making; enhance planning efforts; address coastal issues such as public access or natural hazards; and develop constituencies. This practice is not common in New Jersey.

The evaluation team met with representatives of several local governments and planning commissions, all of whom would like to receive more assistance from NJCMP. Ideas included: model ordinances for local governments; tutorials for elected officials, NJCMP staff presence at city council and other governing body meetings to educate officials; greater coordination with LURP; technical assistance for local governments; and circuit riders to share information on certain prioritized topics.

Several officials also mentioned that they do not know whom to contact when a particular issue arises. Assigning LURP and Coastal Management Office liaisons to a particular issue or geographic area, and then clearly advertising liaison contact information on the website, could improve accessibility of NJCMP. As noted earlier, the Coastal Management Office would be better able to fulfill this request if it were able to retain more of the CZMA implementation (§306) funds.

PROGRAM SUGGESTION: NJCMP should develop a strategy for enhancing assistance to coastal communities.

F. Continued involvement in New Jersey's State planning efforts

The State Plan promotes the strategic application of investment and regulatory policy to: (1) repair and maintain infrastructure in developed areas, (2) reestablish adequate levels of service in underserved communities and (3) protect the agricultural, natural and cultural resources of the state. The State Plan does this by designating geographic regions as Metropolitan Planning Areas (slated for redevelopment), Suburban Planning Areas (designated for future growth), Fringe Planning Areas (planned as buffers between growth areas and non-growth areas), Rural Planning Areas (designed to maintain contiguous areas of farmland), and Environmentally-Sensitive Planning Areas (which set

aside large contiguous areas of land to protect natural resources.) On April 28, 2004, the New Jersey State Planning Commission approved the release of the Preliminary State Development and Redevelopment Plan and the Preliminary State Plan Map for review and negotiation with counties, municipalities, and the public. This launches the third round of cross-acceptance. The State Planning Commission is scheduled to adopt the State Development and Redevelopment Plan in July 2005, replacing the current State Plan, adopted in March 2001.

Once the amended State Plan is adopted, municipalities will be encouraged to endorse the Plan and ensure that “municipal, county, regional and State Agency plans are consistent with the State Development and Redevelopment Plan and with each other. An endorsed plan entitles municipalities and counties to a higher priority for available funding, streamlined permit reviews, and coordinated state agency services.”

While New Jersey’s commitment to smart growth is encouraging, none of the special planning areas account for the special needs of coastal areas. NOAA encourages the Coastal Management Office to continue to be involved in the Cross-Acceptance process to ensure that the State Plan is consistent with the goals of the NJCMP. NOAA also encourages the Coastal Management Office to become involved in the endorsement process to ensure that coastal management is incorporated into local plans and ordinances.

PROGRAM SUGGESTION: NOAA is encouraged by the Department’s involvement in the plan endorsement process and, in particular, the prospect of an initiative whereby local governments would incorporate coastal management principles into local plans and ordinances. To accomplish this, the Coastal Management Office will need a greater role in the plan review and development process.

VI. CONCLUSION

Based upon the recent evaluation of NJCMP, I find that New Jersey is adhering to its approved Coastal Management Program and is making satisfactory progress implementing its provisions.

These evaluation findings contain nine Program Suggestions and no Necessary Actions. The Program Suggestions should be addressed before the next regularly scheduled program evaluation, but they are not mandatory at this time. Program Suggestions that must be repeated in subsequent evaluations may be elevated to Necessary Actions. Summary tables of program accomplishments and recommendations are provided in Appendices D and E.

This is a programmatic evaluation of NJCMP that may have implications regarding the state's financial assistance awards. However, it does not make any judgment on or replace any financial audits related to the allowability or allocability of any costs incurred.

Eldon Hout
Director

Date

VII. APPENDICES

APPENDIX 1: RESPONSE TO PROGRAM EVALUATION AND STATUS AS OF APRIL 2002, URBAN HARBORS INSTITUTE, UNIVERSITY OF MASSACHUSETTS BOSTON

Prior to the evaluation site visit, NJCMP prepared the following response to the 2002 program recommendations prepared by the Urban Harbors Institute.

April 2002 recommendations:

Recommendation #1. As a short-term goal, we recommend that a *Coastal Management Office* be established either directly reporting directly to the DEP Commissioner's Office or as closely as the administrative structure will allow.

The Coastal Management Office now reports to the Assistant Commissioner for Policy, Planning and Science, who reports directly to the Commissioner. In addition, the Coastal Program Manager is on the Commissioner's Policy Team.

Recommendation #2. As a mid-term goal, we recommend that the DEP reconsider the boundary of its coastal zone.

The Coastal Management Program is seriously considering expanding its boundary.

Recommendation #3. As a mid-term goal, the Coastal Management Office should renew or develop Memoranda of Agreement/Memoranda of Understanding with all state agencies outside DEP involved in coastal management activities to use the Basic Coastal Policies—and Coastal Rules wherever there are not statutory conflicts—as a basis for all actions.

The Coastal Management Program is considering MOAs with outside agencies, including NJDOT Office of Maritime Resources and the NJ Meadowlands Commission. The Program is also interested in updating its MOA with the Pinelands Commission.

Recommendation #4. As a mid-term goal, New Jersey should revise the Coastal Management Program Plan. This will incorporate structural changes in the Coastal Management Program, revise Basic Coastal Policies, clarify regulatory changes, explain relevant programs and coastal management activities within DEP and in other agencies, and discuss issues of concern that may require additional work and analysis through the new program structure. The current Program Plan (the so-called "Orange Book") is now over 20 years old.

This effort is underway.

Recommendation #5. As a mid-term goal and as part of Recommendation #5, New Jersey should revise the Basic Coastal Policies to reflect the current issues faced by the New Jersey Coastal Management Program and other entities within the state. The Program Plan should provide sufficient supporting language to make clear what these policies mean and how they will be implemented—but not at the level of detail provided by the Coastal Rules.

As recommended, the Coastal Management Office has drafted revised goals and objectives and intends to include these in the new Program document referenced above.

Recommendation #6. As a mid-term goal, the DEP should incorporate additional elements into the program. New Jersey should consider formally incorporating the Freshwater Wetlands Act and the Stream Encroachment Program into the Coastal Management Program. These programs are already part of the Coastal Rules but may not be able to be utilized in the Federal Consistency review process unless the statutes are formally accepted into the program. The DEP should also consider incorporating the Comprehensive Conservation Management Plans of the three National Estuary Programs in the state into the Coastal Program Plan, either as non-enforceable guidance or as Special Area Management Plans.

The Freshwater Wetlands Protection Act was incorporated into the Coastal Management Program upon NJ's assumption of the federal 404 program in 1994, for all assumable waters. In July 2004, the Freshwater Wetlands Protection Act and regulations were incorporated into the NJCMP for non assumable wetlands as well. The Coastal Management Office intends to submit the Stream Encroachment Program at a later date. No decision has been made on the Comprehensive Conservation Management Plans of the National Estuary Programs.

Recommendation #7. As a mid-term goal, the Coastal Management Office should provide a general description of the coastal resources of the state and how the state manages them. This would provide an easily accessible companion document to the revised Coastal Management Program Plan and would describe the coastal resources of the state (including natural resources, resource-based economies, and the coastal infrastructure and amenities that are part of the built environment) and a general overview of how the state manages them. This publication should be designed to elevate public awareness of reasons for, and techniques of, coastal management in New Jersey.

This publication is being developed.

Recommendation # 8. As a long-term goal, the DEP should analyze the interaction between municipal land use management affecting the coastal zone and state plans and actions. There should be a thorough review of the roles and capabilities of municipal government and state government in managing land use in the coastal zone with an eye towards making the two more compatible and effective.

Recent strides by the Department to address this recommendation include DEP sponsored workshops, including decision-maker workshops for municipal officials and workshops to encourage and educate municipal officials on the importance of implementing a septic management program. In addition, the Coastal Management Program is continuing communication and coordination with Hudson county and other local governments involved in design and construction of the Hudson River Walkway- a land use which provides enhanced public access to the urban waterfront, one of the coastal programs main goals as defined in the new program document referenced above. The Coastal Management Program is working with the NJ Office of Smart Growth to incorporate a coastal management element into municipal master plans through the plan endorsement process. The CMP is also working with oceanfront municipalities to address appropriate beach maintenance techniques and regulatory requirements. Finally, the Program anticipates working with coastal municipal officials regarding issues related to public access to the waterfront.

Recommendation #9. As a long-term goal, the DEP should seek legislation to formally establish and define the role of a Coastal Management Office and program within the state. We recommend a legislative statement of intent that there be a New Jersey Coastal Management Program and defining its administrative structure and purposes. Such a step could lend stability to a program subject to the administrative changes noted over the past 20 years.

The Coastal Management Office does not anticipate pursuing legislation at this time.

Recommendation #10. The Coastal Management Office and NOAA/OCRM should carefully review the status of changes to the New Jersey Coastal Management Program over past years to ensure that the NOAA-approved program is the same as the program operating in the state.

The Coastal Management Program has been, and will continue, to pursue NOAA approval of program changes to ensure that the NOAA approved program is the same as the program operating in the state.

Recommendation #11. As a long-term goal, the Coastal Management Office and DEP should conduct an in-depth review of the purpose and effectiveness of CAFRA, including its current dual role as a permitting program and a regulation-based, land-use planning program. We recommend that DEP carefully review its goals and expectations from CAFRA, particularly as a mechanism to manage growth in the coastal zone and, in light of those goals and expectations, assess its effectiveness.

As an initial step in the evaluation contained in this recommendation, the Coastal Management Office is preparing to conduct an in-depth review of the effectiveness of using CAFRA and other Land Use Regulation Program permits to provide

adequate and meaningful public access as a component of managing development and growth in the coastal zone.

Recommendation #12. As a short-term goal, the Coastal Management Office should develop a plan to establish better links with municipal and county governments.

Please see response to recommendation 8 above.

Recommendation #13. As a short-term goal, the Coastal Management Office should develop a plan to establish better links with non-governmental organizations and the general public.

Recently, the Coastal Management Program has taken steps to expand its association with non-governmental organizations and the general public. These steps include preparation and distribution of fact sheets and brochures designed to provide information concerning a broad range of topics such as the structure of the Coastal Management Program, coastal resource conservation, and environmentally sensitive construction techniques. Additionally, in conjunction with the Office of the Commissioner, the Coastal Program Manager meets regularly with representatives of environmental organizations and NJ builders association. Through its website, the Coastal Management Program provides timely information to the public and provides a service that affords the public the opportunity to ask questions regarding coastal issues. In furtherance of the Coastal Management Program's efforts to establish links with the general public, the development of an education and outreach display on coastal non-point source pollution is being contemplated for placement at the New Jersey Aquarium. Finally, in anticipation of the release of the U.S. Commission on Ocean Policy, the Coastal Management Office developed recommendations for State initiatives for coastal and ocean policy and sponsored two public meetings regarding the proposed initiatives.

Recommendation#14. As a mid-term goal, the Coastal Management Office should develop a process to evaluate the data needs of the various groups managing aspects of coastal resources and the availability, and quality of those data sets. As a long-term goal, the Coastal Management Office and DEP should address issues found in the evaluation.

The Coastal Management Program is working with the Department's Office of Science, Research and Technology on the refinement of a Coastal Research Agenda for New Jersey. The Coastal Research Agenda is intended to provide a statewide unified and integrated set of data needs and research priorities that will contribute to the State's coastal management objectives.

Recommendation#15. As a mid-term goal, the Coastal Management Office should review the contention that poor enforcement is mooted efforts made through the permitting process. This would include a review of staffing, numbers of permits, violations reported, etc. to evaluate whether "poor enforcement" of permits is a reality.

Enforcement has been greatly strengthened in the past several years.

July 2003 recommendations

Recommendation #1. Modify the landward boundary of the defined coastal zone to include all of the “primary” watersheds draining into coastal waters and bays.

The Coastal Management Program is seriously considering expanding the boundary of New Jersey’s coastal zone.

Recommendation #2. Incorporate additional implementing authorities into the Coastal Management Program.

The Coastal Management Program has incorporated the Freshwater Wetlands Protection act and rules, and intends to submit the Flood Hazard Area Control Act and several other authorities in the future.

Recommendation #3. Refine and expand the Basic Coastal Management Policies
As recommended, the Coastal Management Office has drafted revised goals and objectives and intends to include these in the new Program document referenced above.

Recommendation #4. Re-establish policy development, data collection and analysis, coordination, public outreach/education, and planning capabilities within the Coastal Management Program through the Coastal Management Office.

The Office has increased its staff; the Office will serve as the lead for coastal policy development, and has increased its coordination and planning roles.

Recommendation #5. Institutionalize the Coastal Management Office at as high a level as possible within the DEP policy group. Consider a statutory mechanism to formally establish the Office.

The Office reports to the Assistant Commissioner for Policy, Planning and Science, who reports directly to the Commissioner. In addition, the Coastal Program Manager is on the Commissioner’s Policy Team. No legislation is contemplated.

Recommendation #6. Incorporate the Coastal Zone Management Policies into all the rules of all the agencies implementing the program within DEP and at the municipal level where possible.

In response to this recommendation, the Coastal Management Office has drafted revised goals and objectives and intends to include these in the new Program document referenced above. Through the Commissioner of the DEP, the Coastal Management Office intends to provide all implementing programs within the Department with the Program’s revised goals in order to achieve Department-wide endorsement and application of the CMP goals.

Recommendation #7. Work to incorporate the policies into coastal-related programs within other elements of New Jersey state government through MOU/MOAs
The Coastal Management Program is considering MOAs with outside agencies, including NJDOT Office of Maritime Resources and the NJ Meadowlands Commission. The Program is also interested in updating its MOA with the Pinelands Commission.

Recommendation #8. Define the role of the Coastal Management Office
This has been accomplished in the (draft) revised program document referenced above.

Recommendation #9. As a short-term goal, identify specific topic areas of expertise for the Coastal Management Office as a basis for coordination and technical assistance efforts.

The staff of the Coastal Management Program works in three distinct but linked offices. Staff expertise is broad and staff assignments relate to the expertise of individuals that is suited to fulfill the purposes of a specific office. The role of the Coastal Management Office staff is to maintain sufficient flexibility to address emerging issues and draw on and coordinate with individuals with appropriate expertise within the Program and the Department.

Recommendation #10. Establish the Coastal Management Office as the formal DEP liaison with the National Estuary Programs
The Office is considering implementation of this recommendation.

Recommendation #11. Develop mechanisms to ensure closer coordination with municipal governments
See response to 8 in first recommendation section above.

Recommendation #12. Establish improved mechanisms for communication with interest groups and the general public.
Please see response to 13 in section 1 above.

Recommendation #13. Improve the Federal Consistency Review Process
In an effort to facilitate Federal Consistency review, the Coastal Management Office recently drafted and will distribute a Federal Consistency fact sheet that explains the Federal Consistency determination purpose and process and contains information regarding appropriate Department contacts. The information contained in the fact sheet is also provided on the Coastal Management Program website. In addition, the Coastal Management Office prepared a Federal Consistency Guide for use by the Department's Land Use Regulation Program. The Coastal Management Program has updated its Federal Consistency list, completed consultation with appropriate federal agencies and adjacent states and is preparing to submit the list to NOAA. Additionally, the Program established a single point of contact within the Department's Land Use Regulation Program for all USACOE

flood control and shore protection projects. The Program has conducted a training workshop regarding the Federal Consistency process.

APPENDIX 2: NJCMP RESPONSE TO 1997 SECTION 312 EVALUATION FINDINGS

1. **PROGRAM SUGGESTION:** In an effort to better define the role of the NJCMP the OEP should: (a) establish a training schedule for Watershed Region Managers on CZMA requirements and the national coastal program and (b) design an outreach program to other branches of the NJCMP staff and other state agencies and affected parties on the new watershed management approach, the strategy for implementation of the NJCMP through this approach, watershed area priorities, and proper staff contacts. The NJCMP should provide OCRM with this information, and also submit information on how the various elements of the State's coastal zone management program will be met in each of the watershed management areas.

This has not occurred, but new staffing may make it possible to implement this recommendation.

2. **PROGRAM SUGGESTION:** NJDEP should enhance the visibility of the NJCMP within the state's watershed-based management and better articulate its links with the National Coastal Zone Management Program. One way to accomplish this would be to feature projects in the A Watershed Focus that are funded through the NJCMP and continue to inform the public about the importance of coastal stewardship.

NOAA saw a continued need to increase collaboration with the Division of Watershed Management. (See Section C—Improved coordination with state and private coastal management entities).

3. **PROGRAM SUGGESTION:** While the State of New Jersey is just beginning implementation of this process, the NJDEP should consider funding for the preparation of designation petitions for each of five planning areas to demonstrate an interest in testing how each of the designated planning areas might be achieved through working with interested municipalities and therefore, achieving a better level of local buy-in.

New Jersey is now addressing planning and growth management through its Growth Sensitive Framework. NOAA encourages continued NJCMP participation in the development of the Framework and in the community endorsement process to ensure that coastal management concepts are integrated into the Framework. (See Section G—Continued involvement in New Jersey's Growth Sensitive Framework).

4. **PROGRAM SUGGESTION:** The NJDEP should continue to support cross-training of permitting and enforcement staff and the coordination of permitting and enforcement priorities. Additionally, NJDEP should consider pursuing additional enforcement staff, specifically for the purpose of site inspections, as funding becomes available.

NOAA is encouraged that cross-training and coordination between permitting and enforcement staff is taking place, and that additional enforcement staff have been hired. (See Section B—Regulation and Enforcement).

5. **PROGRAM SUGGESTION:** NJDEP should actively consider providing funding to HMDC to support coastal management efforts in the District. This could be done through dedicated section 306 funding for a full-time liaison between the two agencies at HMDC. The liaison would be the central point of contact for coastal management activities, including permitting and federal consistency issues, SAMP development, and interacting with OEP on the State's coastal nonpoint program, and possible section 309 activities, as well as other state planning activities (e.g., watershed management, the State Development and Redevelopment Plan, etc.). The liaison would also be able to provide semi-annual reports on coastal management activities in the District.

NJCMP has not hired a full-time liaison for the Meadowlands Commission, but adoption of the new Master Plan has increased consistency between State and Meadowlands regulations (See Section D—Completion and adoption of the Hackensack Meadowlands Master Plan). Although these findings do not necessarily advocate for a dedicated Meadowlands liaison, NOAA does continue to recommend that more section 306 funding be retained by the Coastal Management Office to increase staffing capacity at the Coastal Planning Office, which would help support a liaison function. (See Section A—Staffing, elevation and leadership of the Coastal Planning Office).

6. **NECESSARY ACTION:** Within 90 days of receipt of these final findings, the NJDEP must submit to OCRM a written explanation of how NJDEP is administering and enforcing its shellfish habitat policy, and indicate whether the NJDEP plans to make any modifications to this policy based on the final issuance of the shellfish study. Any such change to an enforceable policy of the NJCMP must go through the public notice process and be submitted to OCRM for approval pursuant to 15 CFR 923.80-84.

New Jersey's shellfish policy has changed significantly during the evaluation period. (See Section A—docks and piers). The new policies have been approved by OCRM.

7. **NECESSARY ACTION:** The NJCMP must submit a proposed schedule to OCRM by August 31, 1998, for revision and submission of the State's Federal Consistency Manual.

NJCMP is currently working with OCRM to make a program change to its federal consistency regulations. The Coastal Planning Office has already issued informal federal consistency guidance documents. Once the program change has been approved, the Coastal Management Office will issue an updated Federal Consistency Manual and conduct consistency trainings.

8. **PROGRAM SUGGESTION:** The NJDEP is encouraged to revisit its OCS policy and, in coordination with OCRM, make appropriate changes that will permit the policy to be incorporated into the NJCMP.

No action.

9. **PROGRAM SUGGESTION:** NOAA encourages NJDEP to prepare and submit an updated program document by the next evaluation. This document should include all administrative and policy changes, Federal consistency guidelines, and any changes resulting from these findings. In an effort to save costs, NJDEP may want to consider producing the document on the Internet, which will allow for easy updating and accessibility by the public and most municipalities.

The effort with UHI is ongoing. The project is running slightly behind schedule, but should still result in an updated program document.

10. **NECESSARY ACTION:** NJDEP must improve their reporting procedures and submit the required performance reports and work products in an acceptable format that adequately reports the activities and status of the tasks within the award. This must take place with the next performance report following the issuance of these final findings. Additionally, the State must improve its general and specific oversight of financial assistance management awards in an effort to eliminate unnecessary no-cost extensions and possible de-obligation of Federal funds.

Reporting by NJCMP has improved during the evaluation period.

APPENDIX 3: PERSONS AND INSTITUTIONS CONTACTED

New Jersey Coastal Management Program Representatives

Name	Affiliation
Ruth Ehinger	NJDEP Coastal Management Office
Tali Engolz	NJDEP Coastal Management Office
Dorina Frizzera	NJDEP Coastal Management Office
Kevin Hassell	NJDEP Coastal Management Office
Kurt R. Kalb	NJDEP Coastal Management Office
Kim Springer	NJDEP Coastal Management Office
Marcedius Jameson	NJDEP Pesticide Control, Coastal and Land Use and Enforcement
Scott Brubaker	NJDEP Coastal and Land Use Compliance and Enforcement
Raymond Bukowski	NJDEP Coastal and Land Use Compliance and Enforcement
Mike Pisani	NJDEP Coastal and Land Use Compliance and Enforcement
Kathleen Cann	NJDEP
Fred Bowers	NJDEP Division of Water Quality, Bureau of Nonpoint Pollution Control
Helen Rancan	NJDEP Division of Watershed Management, New Jersey Statewide Nonpoint Source Coordinator
Mark Mauriello	NJDEP Land Use Regulation
Kevin Broderick	NJDEP Land Use Regulation
Ernie Hahn	NJDEP Land Use Regulation
Helen Owens	NJDEP Land Use Regulation
Robert Piel	NJDEP Land Use Regulation

State of New Jersey Representatives

Name	Affiliation
Jay Springer	NJDEP Division of Watershed Management
Lawrence J. Baier	NJDEP Division of Watershed Management
Kerry Kirk Pflugh	NJDEP Division of Watershed Management, Estuary Program
Martha Maxwell Doyle	Delaware Estuary Program
Alison Leahy	Barnegat Bay National Estuary Program
Bob Tudor	Delaware River Basin Commission
Steve Jandoli	NJDEP Green Acres Program
Dave Rosenblatt	NJDEP Office of Engineering and Construction
Suzanne Dietrick	NJDEP Office of Dredging and Sediment Technology
Bill Harrison	Department of Community Affairs, Office of Smart Growth
John C. Stokes	New Jersey Pinelands Commission
Linda Wills	New Jersey Meadowlands Commission
Debbie Lawlor	New Jersey Meadowlands Commission
Rick Gimello	DOT Office of Maritime Resources
Tom McCloy	New Jersey Division of Fish and Wildlife, Marine Fisheries Administration

New Jersey Coastal Management Program §312 Final Evaluation Findings

Federal Agency Representatives

Name	Affiliation
Bob Nyman	USEPA, New York-New Jersey Harbor Estuary Program
Janice Rollwagen	USEPA Region 2
Paul Kenney	National Park Service
Eric Schrading	US Fish and Wildlife Service New Jersey Field Office
Wendy Walsh	US Fish and Wildlife Service New Jersey Field Office
Karen Greene	NOAA Fisheries
William F. Slezak	U.S. Army Corps of Engineers – New York District
Roy E. Denmark, Jr.	U.S. Army Corps of Engineers, Philadelphia District

Local Government Representatives

Name	Affiliation
Stanley Lutkiewicz	Brick Township
Carl Turner	City of Long Branch, Planning Department
Andrew Mencinsky	Councilman, Sea Bright

Academic Representatives

Name	Affiliation
Sharon McKenna	Jacques Cousteau National Estuarine Research Reserve/Rutgers Institute of Marine and Coastal Sciences
Eric Simms	Jacques Cousteau National Estuarine Research Reserve/Rutgers Institute of Marine and Coastal Sciences
Michael P. Weinstein	New Jersey Marine Sciences Consortium

Nongovernmental Organization Representatives

Name	Affiliation
Joe Matassino	Partnership for the Delaware Estuary
Barbara Rich	Association of New Jersey Environmental Commissions
Eric Stiles	New Jersey Audubon Society
Simi Batra	Trust for Public Land
Greg Pollack	Surfrider Foundation – Jersey Shore
Debbie Mans	New York/New Jersey Baykeeper
Andrew Willner	New York/New Jersey Baykeeper
Greg Reman	New York/New Jersey Baykeeper
Leann Foster-Sitar	American Littoral Society
Tim Dillingham	American Littoral Society
Cindy Zipf	Clean Ocean Action

APPENDIX 4. PERSONS ATTENDING THE PUBLIC MEETINGS

Name	Affiliation
William Hammarstrom	Party Boat Captain
Patricia Johnson	The Sandpaper
Michael Jaccarino	Press of Atlantic City
Todd Bates	Asbury Park Press
Matthew Lieb	Congressman Frank Pallone, Jr.
Glenn Arthur	New Jersey Council of Diving Clubs
Don Storms	Private Citizen
Leslie Ovechka	Private Citizen
Norman Schuckman	Private Citizen
Janice Hirschorn	Private Citizen

APPENDIX 5. RESPONSE TO WRITTEN COMMENTS

Comment: A group of ten party boat captains and fishermen (Capt. Kenneth Nutt, Howard Lawson, Bill Hammarstrom, James A. Brindley, Eddie Yates, George Mikuletzky, Tim Brindley, George Sully, Dwight Kooyman, and Eric Svelling) submitted comments expressing concern about sewage discharges at Seaside and Surf City. They worried that worsening water quality would affect their livelihoods, which depend on fishing and tourism.

NOAA's Response: NOAA appreciates the concern and interest of numerous New Jersey boat captains that provided written comments during the Section 312 evaluation. NOAA encourages New Jersey to continue to enhance efforts to reduce point sources of pollution and fully implement its coastal nonpoint pollution program to address water quality impairments in near shore coastal waters.

Comment: The Honorable Frank Pallone submitted a comment thanking NOAA for conducting an evaluation of the New Jersey Coastal Management Program and expressing his support for the state's federal consistency authority.

NOAA's Response: NOAA thanks Congressman Pallone for his comments.

APPENDIX 6. SUMMARY TABLE OF ACCOMPLISHMENTS

Issue Area	Accomplishment
Staffing, elevation and leadership of the Coastal Planning Office	Relocation, elevation, and increased staffing of the Coastal Management Office have allowed the office to improve and expand its coordination activities. Coastal Management Office staff is perceived to be knowledgeable and helpful by partners and other entities involved with NJCMP.
Regulation and Enforcement	Permit and enforcement capacity has been strengthened through the addition of more staff and resources, and executive management support for taking action on violations. Coordination has been improved through cross-training, more regular meetings, jointly developed permit condition language, and expanded use of NJEMS. Both regulatory and enforcement staff seem invigorated and encouraged by this progress, and these successful coordination mechanisms should be continued.
Coordination	Partners like the National Park Service, the National Marine Fisheries Service, and the Pinelands Commission thought the joint permit review process worked well. Other entities like the Army Corps and U.S. Fish and Wildlife Service were basically satisfied but thought there was room for improvement (with CAFRA permits specifically).
Coordination	New partnerships have been established on a variety of fronts, notably in coastal land acquisition. Such contacts can be very useful for conducting outreach and education, garnering political and legislative support, and for issue advocacy. The Coastal Management Office should continue to pursue such partnerships.
Coordination	The level of coordination between the Coastal Management Office and the New Jersey Marine Sciences Consortium is a good model that should be applied in other arenas. Notable was the joint involvement and development of the DEP Coastal Research Agenda and Marine Sciences Consortium Priority Research Agenda.
Completion and adoption of the Hackensack Meadowlands Master Plan	NOAA views the successful completion and adoption of the NJMC Master Plan and zoning regulations as quite an improvement over the old plan and zoning regulations. It will lead to greater consistency with statewide regulations and federal environmental statutes and greater environmental sustainability for the Meadowlands.

APPENDIX 7. SUMMARY TABLE OF RECOMMENDATIONS

#	PS/NA	Recommendation
1	PS	The Coastal Management Office needs to continue to find ways to play a leadership role in the management of New Jersey's coastal resources. One mechanism would be to retain more of the §306 funds that are currently being provided to LURP and BCLUE. This would enable the Coastal Management Office to hire additional staff needed to address emerging coastal issues and resolve inconsistencies in coastal management. This would also allow the Coastal Management Office to provide funding support to other entities for projects addressing emerging coastal issues.
2	PS	Several of the laws upon which the NJCMP is based have outdated and insufficient administrative penalty authority. To promote compliance, the NJCMP should pursue legislation that gives the Department updated and sufficient administrative penalty authority.
3	PS	It is clear that the need for enforcement outpaces the Department's staff and resource capabilities. To prevent overtaxing the system, NJCMP should develop a systematic approach to measure and distribute the enforcement workload and recognize accomplishments. NJCMP should also devise and implement a system to prioritize enforcement activities.
4	PS	NJCMP should consider establishing more regular interactions with the Jacques Cousteau National Estuarine Research Reserve to discuss needs and the possibility of joint efforts. If possible, the Reserve should be integrated into NJCMP's other research planning efforts, including the DEP Coastal Research Agenda, and the New Jersey Marine Sciences Consortium Priority Research Agenda.
5	PS	There are many parties – federal, state, and private – involved in coastal management activities in New Jersey. Coordination is not as good as it could be, however, and joint efforts are very ad hoc. The Department should look at ways to enhance communication and coordination among these groups, such as through workshops, regular meetings, strategic planning committee, or other forums. Such activities could help promote sharing research priorities and activities, seeking opportunities to leverage funds, and other joint activities.
6	PS	The Coastal Management Office and the New Jersey Meadowlands Commission should develop an MOU/MOA to ensure mutual understanding of the Commission's role in implementing the NJCMP in the Hackensack Meadowlands District.
7	PS	Prior to using the new Master Plan for consistency determinations, the Meadowlands Commission must also submit the Plan as a Routine Program Change or Amendment to NOAA's Office of Ocean and Coastal Resource Management.
8	PS	NJCMP should develop a strategy for enhancing assistance to coastal communities.
9	PS	NOAA is encouraged by the Department's involvement in the plan endorsement process and, in particular, the prospect of an initiative whereby local governments would incorporate coastal management

New Jersey Coastal Management Program §312 Final Evaluation Findings

principles into local plans and ordinances. To accomplish this, the Coastal Management Office will need a greater role in the plan review and development process.